

REMARKS

Favorable reconsideration and allowance of this application are requested.
Claims 15 and 18-23 remain pending for consideration.

The only issues remaining to be resolved in this application are:

- (1) the rejection of pending claims 15 and 18 under 35 USC §102(e) as allegedly anticipated by Wenderoth '754 (US 2004/0029754); and
- (2) the rejection of pending claims 19-23 under 35 USC §103(a) as allegedly unpatentable over Wenderoth '754 in view of Wenderoth et al '470 (US 2003/0164470).

As will become evident from the following discussion, the presently pending claims are patentable over the applied Wenderoth '754 and Wenderoth et al '470 publications of record.

At the outset, applicants note that presently pending independent claim 15 and the claims dependent therefrom are novel over Wenderoth '754 since the latter discloses that the total amount of the salts of mono- and dicarboxylic acids are less than or equal to 10% by weight, whereas the total amount of such salts according to pending claim 15 is at least 10.01% by weight (i.e., the sum of the lower range amount of 10 wt.% for the salts of the dicarboxylic acid component and the lower range amount of 0.01 wt.% for the salts of the monocarboxylic acid component). Therefore, in view of this reason alone, Wenderoth '754 cannot anticipate the presently claimed invention.

Applicants also note that Wenderoth et al '754 and Wenderoth '470 are commonly assigned to BASF Ag and could only qualify as "prior art" against the subject application under 35 USC §102(e). As such, the rejection of Wenderoth et al '754 alone or in combination with Wenderoth '470 to reject the claims under 35 USC §103(a) is specifically *precluded* by 35 USC §103(c). Please see in this regard the assignments

recorded against the present application at Reel 016869/Frame 0508 and the assignments recorded against Wenderoth '754 and Wenderoth et al '470 at Reel 014531/Frame 0083 and Reel 014018/Frame 0630, respectively.

Moreover, applicants also note that, since the underlying PCT applications for each of the Wenderoth et al '754 and Wenderoth et al '470 publications were not published in the English language, the Wenderoth et al '754 and Wenderoth et al '470 publications are only effective as of their respective filing dates under 35 USC §371(c) of June 18, 2003 and January 22, 2003, respectively. Such filing dates are of course *after* the filing date of the priority German application (i.e., DE 10235477.4) on August 2, 2002 accorded to the present application. In order to perfect the applicants' rights to the August 2, 2002 filing date of the priority German application, a certified English-language translation of the same is being submitted concurrently herewith. As such, neither Wenderoth '754 nor Wenderoth et al '470 is available as statutory prior art under 35 USC §102(e).

Withdrawal of the rejections of record based on Wenderoth '754 and Wenderoth et al '470 is in order.

WENDEROTH et al
Serial No. 10/522,541
November 25, 2009

Fee Authorization

No fee is believed to be required. However, if the Office deems otherwise, then the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Bryan H. Davidson/
Bryan H. Davidson
Reg. No. 30,251

BHD:dlb
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100